

**VIRGINIA:
IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY**

MARVIN EUSEBIO GARCIA-DIAZ,
MARVIN GARCIA-SALVADOR,
JULIO MEJIA AYALA,
EDWIN ALVARENGA,
JUAN FRANCISCO NARVAEZ-MOLINA,
CARLOS MORALES PORTILLO,

Plaintiffs,

v.

LIBRE BY NEXUS INC.,
NEXUS SERVICES INC.,
MICHEAL P. DONOVAN, President and C.E.O. of
Nexus Services Inc. and Libre by Nexus Inc.
RICHARD E. MOORE, Executive Vice President of
Nexus Services Inc. and Libre by Nexus Inc.

Defendants

JURY TRIAL DEMANDED

Case No. **CL19-4356**

FILED IN THE CLERK'S OFFICE
ROCKINGHAM COUNTY, VA

Heather Reason **APR 08 2019**
CLERK

COMPLAINT

INTRODUCTION

1. Plaintiffs bring this lawsuit to recover damages suffered as victims of a fraudulent immigration bond scheme devised by Defendants Libre by Nexus Inc. ("Libre by Nexus"), Nexus Services Inc. ("Nexus Services"), the companies' co-founder and chief operating officer, Defendant Micheal Donovan, and co-founder and Executive Vice President Richard Moore (collectively, "Libre"). Libre's business preys on immigrants in federal detention centers who are too impoverished to pay the money bond required for their release.

2. Libre attracts customers by promising to get them out of immigration detention without the need to pay the full amount of their money bond. However, in addition to a large upfront payment, Libre customers are fraudulently induced to sign documents that require them to pay exorbitant monthly fees and wear an electronic GPS ankle monitor that puts them in fear of perpetual surveillance. Libre then uses threats—based on misrepresentations about its affiliation with federal immigration authorities—to elicit payments from its customers.
3. Although Libre tells state and federal regulators that it provides “immigration bond securitization” and GPS monitoring services, in reality, Libre operates as a middleman connecting surety insurance and bail bond companies with customers in need of immigration bonds. According to Libre, state and federal regulations that govern that industry, including licensing requirements, do not apply to it.¹
4. Indeed, the Virginia Attorney General, the Virginia State Corporation Commission’s Bureau of Insurance, and the federal Consumer Financial Protection Bureau are currently investigating Libre’s business practices.²
5. Libre attempts to camouflage its practices by casting itself as a champion of immigrants and a re-uniter of families, when in reality its scheme traps desperate immigrants into paying thousands of dollars, often in amounts far exceeding their bond, sometimes

¹ See Petition to Set Aside or Modify Civil Investigative Demand at 3, *Nexus Services, Inc. and Libre by Nexus, Inc.*, 2017-MISC-Nexus Services, Inc. and Libre by Nexus, Inc.-0001 (September 8, 2017) (“Libre CFPB Petition”).

² See *Commonwealth of Virginia et al. v. Nexus Services, Inc. et al.*, Civil Action No. CL18002037-00 (Va. Cir. Ct. April 18, 2018); *Consumer Financial Protection Bureau v. Nexus Services, Inc. and Libre by Nexus Inc.*, Case No. 17-cv-02238 (D.D.C. Oct. 30, 2017).

sacrificing their basic necessities to do so.³ In all, Libre's scheme has siphoned more than \$100 million from some of the most vulnerable immigrants and their communities since 2016.⁴

6. Plaintiffs are individuals who were fraudulently induced and coerced into signing agreements with Libre and have paid Libre thousands of dollars, some under direct threats by Libre agents that they will be re-arrested by immigration authorities and sent back to immigration detention. They bring claims to recover damages from Libre under the Virginia Consumer Protection Act and Virginia common law.

PARTIES

7. Plaintiff Marvin Eusebio Garcia-Diaz is a native of El Salvador and resident of Alexandria, Virginia.
8. Plaintiff Marvin Balmorys Garcia Salvador is a native of El Salvador and a resident of Alexandria, Virginia.
9. Plaintiff Julio Mejia Ayala is a native of El Salvador and a resident of Herndon, Virginia.
10. Plaintiff Edwin Alvarenga is a native of Honduras and a resident of Herndon, Virginia.
11. Plaintiff Juan Francisco Narvaez-Molina is a native of Nicaragua and a resident of Manassas, Virginia.

³ See Libre by Nexus website, <https://www.librebynexus.com/> (last accessed Dec. 6, 2017) (linking to "Statement from Nexus Services CEO Mike Donovan Regarding DAPA/DACA Supreme Court Arguments" and including statements including "WE REUNITE FAMILIES").

⁴ See *RLI Insurance Co. v. Nexus Services, Inc.*, Case No. 5:18-cv-00066 (*W.D. Va.* Nov. 28, 2018), Dkt. 138-5, 138-6, 138-13 (Nexus Services Profit and Loss Statements for 2016, 2017, and January – October 2018 showing line items for "combined client income" and "client deposit" in amounts totaling \$98,970,265).

12. Plaintiff Carlos Morales Portillo is a native of El Salvador and resident of Woodbridge, Virginia.
13. Until March 1, 2019, Defendant Libre by Nexus, Inc. was a Virginia corporation headquartered at 113 Mill Place Parkway, Verona, Virginia 24482.
14. Until March 1, 2019, Defendant Nexus Services, Inc. was a Virginia corporation headquartered at 113 Mill Place Parkway, Verona, Virginia 24482.
15. As of March 1, 2019, both Defendant Libre by Nexus, Inc. and Defendant Nexus Services, Inc. have moved their headquarters to Atlanta, Georgia, and are registered with the Virginia State Corporation Commission (“SCC”) as foreign corporations.⁵ They continue to conduct regular business in the Commonwealth of Virginia and maintain their principle place of business at 113 Mill Place Parkway, Verona, Virginia 24482.
16. Defendant Micheal Donovan is a resident of Virginia and co-founder and President and Chief Executive Officer of Libre by Nexus, Inc. and Nexus Services, Inc.
17. Defendant Richard Moore is a resident of Virginia and co-founder and Executive Vice President of Libre by Nexus Inc. and Nexus Services Inc.

⁵ See *Libre by Nexus, Inc.*, Commonwealth of Virginia, State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/0778842> (showing “Surrendered” status as a Virginia corporation); *Libre by Nexus, Inc.*, Commonwealth of Virginia, State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/F211713> (showing registration as “Foreign Corporation”); *Nexus Services, Inc.*, Commonwealth of Virginia, State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/0772800> (showing “Surrendered” status as a Virginia corporation); *Nexus Services, Inc.*, Commonwealth of Virginia, State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/F211714> (showing registration as “Foreign Corporation”).

JURISDICTION AND VENUE

18. The Court has personal jurisdiction over Defendants pursuant to § 8.01-328.1 of the Code of Virginia because Plaintiffs' claims arise out of the Defendants' transaction of business in Virginia.
19. Subject-matter jurisdiction is appropriate under § 17.1-513 of the Code of Virginia.
20. Venue is proper under §§ 8.01-257 and 8.01-262 of the Code of Virginia
21. The Defendants' written agreement which the company used until approximately 2017, contains a forum-selection clause that gives a party bringing suit the choice of judicial or arbitral forum. Plaintiffs elect to litigate in this Court.⁶

FACTUAL ALLEGATIONS

Background on Money Bail in the Immigration-Detention Context

22. The fertile setting for Libre by Nexus's scheme is the U.S. immigration detention system.
23. Non-citizens in removal proceedings may be held in federal custody in a system of detention centers.
24. The U.S. Immigration and Customs Enforcement ("ICE") may allow the person's release during removal proceedings. *See* 8 C.F.R. 236.1(c). ICE may require an immigrant to post an immigration bond as a condition of his or her release from custody. *See* 8 U.S.C. § 1226(a)(2)(A); 8 C.F.R. § 236.1(c)(10).

⁶ Section 8 of the agreement's sub-section, GPS Monitoring Disclosure Statements, states: "Any claim or dispute, whether in contract, tort, statute or otherwise . . . between [Plaintiffs] and Nexus Programs . . . shall, at the election of [Plaintiffs] or Nexus, be resolved by neutral, binding arbitration and not by a court action....[Plaintiffs] and Nexus retain the right to seek remedies in court for disputes or claims within that court's jurisdiction, unless such action is transferred, removed, or appealed to a different court."

25. Immigration bonds may be secured by a cash deposit (“cash bonds”) or may be guaranteed by a surety company certified by the U.S. Treasury Department pursuant to 31 U.S.C. §§ 9304-9308 to issue bonds on behalf of the federal government (“surety bonds”). 8 C.F.R. § 103.6(b). Companies who wish to directly write federal bonds must apply to the Treasury’s Bureau of Fiscal Service, which reviews companies’ applications to ensure that only financially sound companies licensed by a state or federal government receive Treasury certification. The Fiscal Service publishes a list of certified companies (called “Department Circular 570”) on its website.⁷
26. As of the date of this filing, neither Nexus Services Inc. nor Libre by Nexus, Inc. appears on the Treasury Department Circular 570.
27. When posting an immigration bond, surety companies and their agents serve as co-obligors on the bond and are jointly and severally liable for payment in the face amount of the bond if the bond is breached.
28. Because federal regulations do not require ICE or an immigration judge to consider a person’s ability to pay a money bond, individuals in detention are frequently unable to obtain their release due to their high money bonds. In the Arlington Immigration Court, where immigration cases of Virginia residents are heard, the median bond amount is \$7,500. Moreover, bond amounts have increased dramatically in the last several years; the national median bond amount rose 50 percent from 2013 to 2018.⁸

⁷ See Department Circular 570, <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm> (last accessed Oct. 16, 2018).

⁸ TRAC Immigration, *Three-fold Difference in Immigration Bond Amounts by Court Location* (July 2, 2018), <https://trac.syr.edu/immigration/reports/519/>.

29. The result is that thousands of individuals are held in federal immigration detention each day simply because they cannot afford to pay their money bond amount.
30. Libre's scheme targets and exploits these individuals.

Background on the Defendants

31. Nexus Services Inc. is a private for-profit company formed and registered with the Virginia SCC in December 2013.
32. Libre by Nexus Inc. is a private for-profit company and wholly-owned subsidiary of Nexus Services Inc. formed and registered with the Virginia SCC in June 2014. As of 2019, Libre has grown tremendously and now operates nearly 30 offices in eight states nationwide and one office in El Salvador.⁹
33. Nexus Services and Libre by Nexus were Virginia corporations until March 1, 2019, when the companies relinquished their Virginia incorporation and incorporated in Georgia. Both companies are now registered as foreign corporations with Virginia's SCC. Both companies maintain a principal place of business in their Verona, Virginia office and continue to do regular business in Virginia.
34. Upon information and belief, Nexus Services and Libre by Nexus are "alter egos" of each other. Evidence produced in another lawsuit against Nexus Services and Libre by Nexus—including the affidavit of those companies' former accountant—shows that the companies commingle corporate funds, and funds generated by Libre by Nexus are regularly used to pay off Nexus Services' expenses without observing proper

⁹ Miller, Michael, *This company is making millions from America's broken immigration system*, The Washington Post (March 9, 2019), https://www.washingtonpost.com/local/this-company-is-making-millions-from-americas-broken-immigration-system/2017/03/08/43abce9e-f881-11e6-be05-1a3817ac21a5_story.html?utm_term=.0baa1d6f06db.

accounting practices for these transfers.¹⁰ Nexus Services and Libre by Nexus share common officers, directors, and/or managing agents, including Defendants Donovan and Moore.

35. Defendants Donovan and Moore are co-founders of Nexus Services, Libre by Nexus, and several related corporate entities.
36. Defendant Donovan owns 51 percent of Nexus Services and is President and Chief Executive Officer for Nexus Services and Libre by Nexus. He also serves as the primary public spokesperson for the companies.
37. Defendant Moore owns 39 percent of Nexus Services, serves as Executive Vice President, and controls much of the internal operations of the companies.
38. Evan Ajin owns 10 percent of Nexus Services and serves as Vice President of Operations.
39. Upon information and belief, both Donovan and Moore have been convicted of fraud-related felonies (e.g. forgery, obtaining money by false pretense, attempted larceny, grand larceny) and both have been incarcerated. As individuals with felony convictions, Donovan and Moore are not eligible to be licensed as a bail bondsmen or to serve as agents of a bail bondsman. 6 V.A.C. 20-250-30(C)(1).
40. Upon information and belief, Defendants Moore and Donovan regularly disregard the corporate structure of both Nexus Services and Libre by Nexus for their own advantage, including taking interest-free loans from the corporations and paying personal expenses

¹⁰ See *RLI Insurance Co. v. Nexus Services, Inc.*, Case No. 5:18-cv-00066 (W.D. Va.) (the “RLI Lawsuit”).

with corporate funds, and as a result it would create an injustice to treat the corporations and the individuals as separate entities.

41. Upon information and belief, both Nexus Services and Libre by Nexus, together or separately, lack sufficient assets to provide a complete remedy for the Plaintiffs.
42. Due to the virtual inseparability of Nexus Services, Libre by Nexus, Micheal Donovan, and Richard Moore, Plaintiffs refer to all four Defendants collectively as “Libre” or “Defendants” throughout this Complaint.

Libre’s Agreements with Licensed Surety Companies

43. Libre’s immigration bond scheme was devised in approximately 2012 by Defendants Donovan and Moore, inspired by their own personal experiences spending time in jail.¹¹
44. Around that time, Libre began making agreements with licensed surety companies. The licensed surety companies, through their bonding agents, would guarantee bonds with the federal government for detained immigrants at the request of and indemnified by Libre.
45. In exchange, Libre would collect a premium on the bonds from the detained immigrant, transfer a portion of it to the licensed surety company and their agents at the bail bond company, and indemnify the surety company for any bonds forfeited (if the immigrant failed to show up at the hearing). Upon information and belief, at least a portion, if not all, of these insurance premiums was collected in violation of Virginia law governing insurance. (*See infra* ¶ 57).

¹¹ Moyer, Justin, *He wanted to fix a broken bail system. Then Hitler emoji came his way*, The Washington Post (Aug. 1, 2016), https://www.washingtonpost.com/local/he-wanted-to-x-a-broken-bail-system-then-hitler-emoji-came-his-way/2016/08/01/971c0f50-2800-11e6-b989-4e5479715b54_story.html?noredirect=on&utm_term=.b345e5de9ba8.

46. The Virginia State Corporation Commission's Bureau of Insurance is currently participating in a coordinated multistate investigation of Defendants for Libre's unlicensed collection of insurance premiums.

Libre Deceives Customers About the Service It Provides to Induce Them to Sign Contracts Requiring Them to Pay Exorbitant Fees

47. Libre primarily targets Spanish-speaking customers. Beyond the fact that most immigrants in detention are Spanish-speaking, "Libre" means "free" in Spanish. Libre also runs Spanish-language advertisements in the waiting rooms of detention centers around the country.
48. Libre paints itself as a champion of immigrant rights and in the business of reuniting families.¹² In reality, Libre is an unlicensed middleman, embracing immigrants only to feed off of them like a parasite. As discussed above, because Libre's founders are unable to be licensed as bondsmen themselves, the company has contracted with licensed federally-certified surety companies who, through their bail bond agents, guarantee to pay the government the bond should the immigrant fail to appear at his or her future immigration hearings. Critically, *no one*—not Libre, not the surety company, not bail bond agents—pays any money to the government to secure a detained immigrant's release (unless or until the person's bond is forfeited by the government).
49. Libre acts as an intermediary connecting detained immigrants to sureties and their bonding agents and intentionally obscures its role in the immigration bond process in order to induce immigrants to contract with it for its "services," which are wholly unnecessary and have no relation to the person's immigration case.

¹² Libre by Nexus website, *supra* note 3.

50. Indeed, Defendant Donovan appears on each immigration bond form as “the person who executed a written instrument with the surety company requesting it to post bond.” *See, e.g.,* Exhibit 6 at 1.
51. Libre takes the position that federal and state laws regulating the surety insurance and bail bond industries do not apply to it, because Libre is not the company that makes the guarantees with the federal government. Because it considers itself outside the scope of such regulations, Libre charges its customers more than any licensed surety company and its bail bond agents would be allowed to charge under those statutes and requires its customers to wear and be surveilled by GPS monitoring devices, which licensed and regulated sureties in Virginia could not do.¹³
52. Libre leverages its unregulated business model to defraud, mislead, coerce, and profit tremendously from its consumers: detained immigrants too poor to pay their bonds, often newly-arrived asylum seekers like many of the Plaintiffs and their families. According to Libre’s financial records introduced in the RLI Lawsuit, the company collected approximately \$99 million between January 2016 and October 2018 in “client deposits” and “combined client income.”
53. In a typical consumer experience, either an immigrant in detention or their friend or family member contacts Libre, and a Libre employee explains the terms over the phone. Libre often faxes a written agreement to the friend or family member and requires them to make the up-front payment by making a cash deposit in a Libre bank account.
54. Once the friend or family member has made the up-front payment, Libre arranges to have the bond guaranteed by the surety and bail bond companies. Libre then picks up

¹³ Va. Code Ann. § 9.1-185.8(I).

the detained immigrant at the detention center, takes them to a fast food restaurant, and then to a Libre office.

55. At this point, customers are effectively in Libre’s custody. Having just been released from immigration detention, in many cases having never been in the United States outside of the custody of immigration authorities, and far from any friends or family members, they are dependent upon Libre for food, transportation, and communication with the outside world. Many Libre customers do not speak English and are without the ability to contact a friend or family member, so they would otherwise be stranded in a country where they do not speak the local language.
56. In this environment, Libre presents immigrants with a contract—either the “Original Contract” used between 2013 and 2017 which was almost entirely in English or the “Revised Contract” used 2017 to the present (both described in detail below). Libre employees mislead customers or willfully take advantage of customers’ mistaken understanding that, because bond has been posted and they have been released, the deal is already final and their signature is only a formality.
57. The Libre contract requires the person to make hundreds of dollars in monthly payments for years. The total amount required under the contract is almost always greater than the immigrant’s bond amount, and far exceeds the 10-15 percent of the bond amount that a licensed bail bond company could charge under Virginia law.¹⁴
58. Libre further deceives and misleads customers by disguising the payments required by the agreement variably as a “lease” for the GPS monitor (under the Original Contract),

¹⁴ Va. Code Ann. § 9.1-185.8(I).

as “program fees” (under a Revised Contract), or by verbally describing them as a loan, or as “collateralization” or “securitization” of the immigration bond.

59. In order to further profit at its customers’ expense, Libre misleads customers into believing that a failure to comply with the contract terms and pay Libre will have consequences for their immigration cases, including re-arrest and detention. In fact, unlike licensed bail bond agents in Virginia, Libre has *no authority* under state or federal law to compel the immigrant to appear at their court hearing or deliver the immigrant back to immigration custody.

The Original Contract

60. Libre has used at least two different written contracts since it began operating, each with similar but distinct terms, requirements, and descriptions of Libre’s service.
61. The contract Libre used from its founding until sometime in 2017 (hereinafter “Original Contract”) contains several deceptive and misleading components, *see, e.g.*, Exhibits 1, 2. Plaintiffs Marvin Eusebio Garcia-Diaz, Marvin Garcia-Salvador, and Julio Mejia Ayala are all parties to Original Contracts.
62. First, a consumer is required to pay up-front payments in the amount of 20% of her bond, a \$420 “advance payment,” and a \$460 “activation fee.”
63. These up-front payments are disguised bail bond premiums which Libre collects on behalf of itself and the third-party surety companies and their bail bond agents. Libre does this despite the fact that it is not licensed to solicit or collect bail bond premiums in Virginia.
64. Second, the Original Contract requires a consumer to wear and “lease” a GPS monitor, and submit to electronic surveillance. A customer is required to pay “lease” and

“monitoring service” fees in the amount of \$420 per month until the immigrant’s immigration case is complete or she pays Libre “collateral” (i.e., cash) in the full amount of the bond to “replace collateral pledged by Libre.”¹⁵

65. For the vast majority of Libre customers, this undefined term of the contract will be measured in years, not months.¹⁶ As a result, many, if not most, Libre customers would eventually pay Libre fees in amounts much greater than their bond amount. And unlike in the typical surety bond context, they will not get the money back after they attend every court hearing.
66. The “Lease Agreement” section of the contract is misleadingly presented as a tripartite agreement between Libre, the customer, and an unspecified governmental “Agency.”

The first sentence of the document propounds:

“THIS LEASE AGREEMENT (hereinafter “Lease,” “Agreement” or “Lease Agreement”), dated ____ by and between Libre by Nexus Inc. (hereinafter referred to as “Lessor”), and _____ (hereinafter referred to as “Lessee”), and _____ Agency has an interest in electronically monitoring individuals who are either required to be or have agreed to be tracked by electronic monitoring equipment.”

67. In reality, no “Agency” or government body is ever a party to the contract.

¹⁵ See Exhibit 1 at 10 (“Payment Schedule: GPS Lease”).

¹⁶ According to the Transactional Records Access Clearinghouse (“TRAC”), a data-gathering and data-research center organization at Syracuse University, the average number of days to process an immigration case has risen dramatically in recent years. In 2018, for example, the average case took 578 days. For immigrants who win their cases, however, it took an average of 1,066 days. This acute backlog in immigration cases is only getting worse. In the Arlington Immigration Court in Arlington, Virginia, the average wait time for a court date is 1,400 days (or almost four years).

68. Despite the fact that no government agency is party to the contract, the Lease Agreement nevertheless contains various lines for “Agency” signatures to reinforce the illusion that the government is party to the contract.
69. Indeed, the longest section of the Lease Agreement contains so-called “Agency Provisions” regarding use of electronic monitoring software, and another lengthy section refers to “General Provisions Applicable to Both Lessee and Agency.”
70. The clear implication of these various provisions is that the “Agency” is a governmental agency that has an interest in the customer’s compliance with the lease of the GPS monitor. The purpose of Libre’s misrepresentation that a government “Agency” is party to the contract is to instill in its customers the false impression that their compliance with the terms of the contract may lead to re-arrest, re-detention, or affect the ultimate disposition of their immigration case. By deliberately creating this false impression, Libre increases the likelihood that its customers will continue to pay the monthly fees described in the fraudulent contract and thereby fill its coffers.
71. Libre further misleads customers by conducting what it passes off as a “risk assessment.” Libre pretends to assess—on an individual basis—whether a specific customer presents a sufficient flight risk so as to require the customer to agree to lease and wear a GPS monitor (for \$420 per month) as a condition precedent to Libre posting a bond on that customer’s behalf. In reality, Libre crafted the so-called “risk assessment” so that it always produces the same result: the customer is always required to lease and wear a GPS monitor in order to secure the bond.
72. The sham “risk assessment” worked as follows. Libre used a “Risk Assessment Instrument” that purported to calculate the risk of danger or flight an individual poses

using a variety of demographic factors. It purported to assess this risk by assigning different “point” values to different, ostensibly objective, factors. Any customer whose circumstances implicated so many factors such that the combined point value was equal to or greater than 21 points was deemed to present a flight risk and was therefore required to lease and wear a GPS monitor for \$420 per month in order to secure their bond. In theory, a hypothetical customer who scored less than 21 points would not have to rent a GPS monitor. But no customer ever scored less than 21 points. Libre ensured that every one of its customers exceeded the 21 point threshold by including one sham factor in its “Risk Assessment Instrument” that was worth 22 points. Libre’s representatives always marked ‘yes’ next to this one factor regardless of that customer’s individual circumstances. In this way, every customer became a flight risk and was required to lease and wear a GPS monitor.

73. This sham factor purported to assess whether the individual faced what it referred to as a “presumption charge,” but “presumption charge” is defined neither in the contract nor in any immigration laws or regulations. For Libre’s purposes, “presumption charge” was a catch-all term that Libre created to ensure that all of its customers would score over 21 points (and therefore would be required to lease the GPS) while at the same time creating the false impression in its customer’s mind that his obligation to lease the GPS as a condition of release was the product of his own specific individual circumstances rather than something that Libre had predetermined it would require.
74. The Risk Assessment Instrument provides no mitigating factors by which the triggering of the GPS requirement can be undone. In other words, the “presumption charge” factor is dispositive and nearly all immigrants seeking release from detention through Libre,

including all plaintiffs in this suit who signed the Original Contract, were required to wear the monitor, and thus pay the “lease fees.”

75. Libre’s scheme depends on the illusion that this monitoring is essential to securing release from detention, and that it is the unique feature of Libre services that allows detainees to post bond without having to provide collateral.
76. The Original Contract contains a page titled “Conditions of Monitoring,” which warns the customer that “failure to meet program conditions may result in program participation revocation, and that my bond may be revoked and I may be remanded to the custody of the jurisdiction wherein I face charges in the above referenced case.”¹⁷ This statement is false. Libre has no relationship whatsoever with the federal government and has no authority to revoke bonds or remand any person into custody. Failure to pay Libre or adhere in any way to the contractual terms or “program conditions” has no bearing on the person’s immigration case, their immigration bond, or their ability to remain free from detention.
77. Similarly, Libre’s contract documents contain almost no mention of the consequences of the customer for defaulting on their payments, but the clear implication is that Libre will cause them to be re-detained if they do not pay. For example, one contract document called “Contract for Immigration Bond Securitization and Indemnity Agreement” states:

[The customer’s] failure to appear in court as herein required or to notify Securitizer of change of address or place of employment or issuance of a warrant for [the customer’s] arrest on criminal charges by any Court subsequent to the date of this agreement *shall be considered a breach of this agreement and the*

¹⁷ See Exhibit 1 at 5 (“Libre by Nexus Respondent Contract: Conditions of Monitoring”).

conditions of the bond, entitling Securitizer or Surety to surrender the Defendant to the custody of the Court without return of payment of premium or any part thereof. (emphasis added).

78. This statement is deliberately false. Libre does not have the power to arrest or surrender its customers to any court or government agency. Libre knows it does not have this power, but it profits from causing its customers to believe that it does.
79. The Original Contract is approximately 22 pages, 20 of which are in English. The English-language documents contain the vast majority of the contract terms, including the payment requirements, the term of the contract, a purported grant of consent by the immigrant to be tracked by a GPS monitoring device, a purported promissory note that takes effect if the immigrant's bond is ever forfeited, and a forum-selection clause.
80. The one or two pages that are translated into Spanish are deceptive and misleading in their own right. The pages have been poorly translated from English to Spanish, and the resulting language is confusing and misleading. In addition, the Spanish-language pages fail to convey all the essential terms of the agreement, including the amount of the required monthly "lease" payment.

The Revised Contract

81. Libre changed the terms of the transaction and rolled out a Revised Contract sometime in 2017, *see, e.g.*, Exhibits 3, 4, 5. Plaintiffs Edwin Alvarenga, Juan Francisco Narvaez-Molina, and Carlos Morales Portillo are all parties to Revised Contracts.
82. The Revised Contract describes several mandatory fees and charges that customers are required to pay: Set-Up Fees, Monthly Program Fees, Maintenance Fees, Equipment

Damage Fees, and Program Non-Compliance Fees. In addition, the Revised Contract provides for optional Bond Collateralization Payments.

83. “Set Up Fees” are up-front payments charged by Libre “to gather information about You and Your Co-Signer, coordinate with the bonding company, make arrangements for Your release from detention, and coordinate and set up travel arrangement to move you from the detention facility.” Set-Up Fees also include a “one-time fee, fees paid to third parties, travel fees, and other fees that may apply on a case by case basis.” The Revised Contract does not specify the amount of Set Up Fees but does advise that Libre “will retain \$990 of your Set-Up Fee to cover its administrative costs, including but not limited to its risk assessment.” Set Up Fees constitute, or at least include, surety insurance premiums that Libre is not licensed to collect.
84. In addition, the payment structure is changed and monthly payments are no longer disguised as a “lease,” but as “Program Fees.”
85. “Program Fees” are “recurring monthly charges by Libre that You must pay.” Program Fees are not credited to the amount of the bond and not reimbursed even if the customer appears at all her immigration court hearings. Program Fees are graduated in the amount of the bond according to the following schedule:

Amount of Bond	Minimum Program Fee Payment	Max No. of Payments	Total
Up to \$4,999	\$250	22	\$5,500
\$5,000 - \$7,499	\$350	22	\$7,500
\$7,500 – \$9,999	\$375	24	\$9,000
\$10,000 - \$14,999	\$450	34	\$15,300
\$15,000 – \$19,999	\$450	40	\$18,000
\$20,000 and Up	\$475	60	\$28,500

86. Under the Revised Contract, the required payments are divorced from the requirement to wear a GPS monitor: individuals with bond amounts of \$5,000 or greater are required to wear GPS monitors and undergo electronic surveillance; those with bond amounts of \$4,999 or less, however, are no longer required to wear the GPS monitor. Additionally, individuals who are required to wear the GPS monitor may eventually have them removed once they pay 80% of their Program Fee installment payments.
87. The Revised Contract imposes other conditional fees. For example, if a customer fails to keep the GPS monitor charged, Libre will charge a Program Non-Compliance Fee equal to the travel and lodging costs for the Libre representative to locate the individual, up to \$1,500. If a customer damages the GPS monitor, Libre may charge a \$2,500 Equipment Damage Fee. Additionally, a consumer is required to pay Maintenance Fees to Libre in the amount of \$50 per month until the person's bond is cancelled by the federal government (at the end of her immigration case). Libre requires these fees even after the person pays all the installment Program Fees or pays Libre the full amount of the bond.

Libre's Unnecessary, Deceptive, and Intimidating GPS Monitoring Requirement

88. Libre's use of GPS monitoring is an unnecessary and meaningless requirement that serves only to mislead and intimidate its customers into paying the company and causes them physical pain, discomfort, and emotional distress.
89. While under GPS monitoring, customers must cope with the embarrassment and indignity of wearing a physical reminder of Libre's crippling financial toll and live under the Orwellian specter of round-the-clock surveillance of their whereabouts, often for years at a time. Customers are required to charge the ankle monitors for hours each day, during which time they are shackled to an electrical outlet. The monitors often overheat, causing burns, vibrate randomly, or make loud beeping noises without warning.
90. These GPS monitors are unnecessary and have not been ordered by any court, immigration judge, or immigration authority. In fact, ICE runs its own GPS monitoring program, which it operates free of charge for immigrants. Licensed surety and bail bond companies in Virginia would not be able to require their customers to wear GPS monitoring as a contractual condition.¹⁸
91. On top of this, on information and belief, Libre does not, and is in fact incapable of, monitoring many of its customers. Libre changed the vendor for its monitoring at least twice in the last three years, did not inform the vast majority of its customers of this at

¹⁸ See Va. Code § 9.1-185.8(B)(2) ("A licensed bail bondsman shall not: [...] Solicit [...] or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond").

any time following any of the changes, and did not supply the vast majority of consumers with new monitors with each change.

92. Accordingly, Libre by Nexus cannot monitor the whereabouts of some customers wearing monitors from an old vendor and yet these customers still wear the monitors and make the monthly “lease” or “Program Fee” payments, believing they are necessary to secure their continued release from detention.
93. Supporting this fact, Libre does not—indeed, *cannot*—deliver an immigrant to the immigration authorities should they fail to appear for their immigration hearing.

Governmental Investigations of Libre’s Business Practices

94. As mentioned above, Libre’s scheme has drawn the attention of several federal and state regulatory agencies.
95. In October 2017, the federal Consumer Financial Protection Bureau (“CFPB”) filed a petition in federal court to force Nexus Services and Libre by Nexus to comply with a civil investigative demand (“CID”) issued to them in August of that year. In December 2018, the CFPB won a court order enforcing the CID and the investigation is ongoing.
96. The Virginia Attorney General has been investigating the company and in December 2017 filed a petition in Virginia state court to enforce its own CID. In August 2018, the Richmond Circuit Court ordered Libre to comply with the CID. That investigation is ongoing.
97. The Virginia State Corporation Commission’s Bureau of Insurance also has initiated an investigation into the company for violations of the state’s insurance code. That investigation is ongoing.

98. Other states in which Libre does business have also taken notice. The New York Attorney General's Office filed a petition to enforce its CID in March 2018. Libre also faces lawsuits filed by consumers in New York and California.¹⁹

PLAINTIFFS' FACTUAL ALLEGATIONS

Marvin Balmorys Garcia Salvador and Marvin Eusebio Garcia Diaz

99. Plaintiff Marvin Balmorys Garcia Salvador ("Mr. Garcia Salvador") and his son, Plaintiff Marvin Eusebio Garcia Diaz ("Mr. Garcia Diaz"), are citizens of El Salvador, who came to the United States seeking asylum in 2014. Both are native Spanish speakers and now live in Alexandria, Virginia.
100. In late 2016, Mr. Garcia Diaz was arrested by ICE agents and taken to Farmville Detention Center, a facility operated by Immigration Centers of America in Farmville, Virginia.
101. A bond hearing was held for Mr. Garcia Diaz and an immigration judge ordered his release subject to an \$8,000 bond.
102. Mr. Garcia Salvador was not able to afford the \$8,000 bond but wanted to get his son out of the detention center as quickly as possible. An acquaintance told him that Libre might be able to help. Mr. Garcia Salvador contacted the company by phone to learn more.
103. Over the phone, a Libre representative explained in Spanish that Mr. Garcia Salvador would need to sign a contract, make a \$2,500 up-front payment and pay \$420 per month "toward the bond" in order to cause Mr. Garcia Salvador and Mr. Garcia Diaz to believe

¹⁹ See *Quintanilla Vasquez et al. v. Libre by Nexus, Inc.*, Case No. 4:17-cv-755-CW (N.D. Cal. Feb. 15, 2017); *Rivera Pavon et al. v. Libre by Nexus, Inc.*, Case No. 1:19-cv-01264 (E.D.N.Y. Mar. 04, 2019).

that they would be repaying a loan in the same amount of the bond (\$8,000). The Libre representative did not tell Mr. Garcia Salvador and Mr. Garcia Diaz that the \$420 per month was to lease a GPS device.

104. In exchange, Libre would post the \$8,000 bond money and Mr. Garcia Diaz would be able to get out of Farmville Detention Center and return home to Alexandria. The representative did not inform Mr. Garcia Salvador that his son would be required to wear or lease a GPS ankle monitor.
105. Libre sent Mr. Garcia Salvador the 22-page Original Contract documents, which were entirely in English except for one page. *See Exhibit 1*. The page translated into Spanish notifies the reader about the up-front payments and GPS monitoring requirement but is silent about monthly rental payments.
106. The contract documents contained a “Risk Assessment Instrument” which purported to evaluate the flight risk posed by Mr. Garcia Diaz. *See Exhibit 1 at 2*. But for the sham “presumption charge” designation, Mr. Garcia Diaz would not have reached the 22 point threshold that triggers the GPS requirement and its monthly lease fee. (See ¶¶ 71-75, *supra*).
107. Mr. Garcia Salvador did not understand most of the contract because he cannot read or understand English. On March 10, 2017, relying on the terms as communicated by the Libre employee over the phone and the two pages translated into Spanish, which were consistent with those terms, Mr. Garcia Salvador signed the documents.
108. Mr. Garcia Salvador did not have \$2,500 so he borrowed the money from his sister and deposited the money into Libre’s account through SunTrust Bank, as was instructed by the Libre representative.

109. On information and belief, shortly after Mr. Garcia Salvador made the \$2,500 deposit into Libre's account, Libre arranged for bond to be posted on behalf of Mr. Garcia Diaz through a licensed bail bond company and a licensed surety company.
110. On or about March 14, 2017, after the bond had been posted, a Libre representative picked up Mr. Garcia Diaz from the Farmville Detention Center. The representative took Mr. Garcia Diaz to a Subway Restaurant and bought him something to eat before driving him to Libre's office near Tysons Corner, Virginia.
111. Mr. Garcia Salvador, who had been informed by a Libre representative that his son was being released, was at the Libre office in Tysons Corner when his son arrived. A Libre representative named "Jonathan" met them at the office.
112. Jonathan presented them with the Original Contract, which was in English, but did not explain what the pages said and simply instructed Mr. Garcia Salvador and Mr. Garcia Diaz to sign in the appropriate places. Jonathan told Mr. Garcia Salvador and Mr. Garcia Diaz for the first time that Mr. Garcia Diaz would have to wear the GPS ankle monitor. Jonathan also did not explain that the monthly payments were a purported "lease" of the GPS monitor and would not be returned to them at the conclusion of Mr. Garcia Salvador's immigration case.
113. Faced with these new onerous terms, and fearing that refusing the terms would mean Libre would take Mr. Garcia Diaz back to detention, they agreed. Mr. Garcia Diaz was outfitted with the GPS ankle monitor and instructed to charge it daily.
114. Mr. Garcia Salvador began making monthly payments to Libre in the amount of \$500 per month, higher than the amount required, in order to repay more quickly what Libre

had caused him to believe was a debt that could be repaid in full rather than a lease agreement of an unlimited term.

115. After a couple months, Libre came to Mr. Garcia Diaz's home to replace his monitor with a new one, purportedly because "it wasn't working and it wouldn't charge."
116. After several months, Mr. Garcia Salvador lost his job. He contacted Libre to find out how much more money he owed, and to find out what would happen if he could not make payments. He was shocked when the Libre representative informed him that the \$3,500 he had paid were "rental fees" for the GPS ankle monitor. The Libre employee told him that he would have to pay \$5,500 *in addition to* the \$420 monthly payments if he wished to have the GPS monitor removed from his son's ankle. Upon information and belief, Libre retained the \$80 Mr. Garcia Salvador paid each month in excess of the \$420 monthly payment without crediting it towards the threshold for GPS removal.
117. Mr. Garcia Salvador was despondent. He was already being crushed under the weight of the monthly payments. As a low-wage worker, Mr. Garcia Salvador would sometimes go without food so that he could pay \$500 to Libre. According to Libre, he was trapped: keep paying \$420 per month for potentially years until his son's immigration case concluded or come up with \$5,500 that he did not have.
118. Shortly thereafter, Mr. Garcia Salvador sought legal assistance. His last payment to Libre was in early 2018. Since then, Libre has called him repeatedly, urging him to make payments, and stopped only when Mr. Garcia Salvador notified them that he was represented by legal counsel.
119. For his part, wearing the GPS ankle monitor interfered with Mr. Garcia Diaz's daily life and caused him physical and mental suffering. He was required to charge it for three or

four hours per day, during which time he is tethered to an electrical outlet and the monitor would burn hot and hurt his skin. If Mr. Garcia Diaz did not charge the monitor, it beeped loudly. The skin on Mr. Garcia Diaz's ankle was also red and irritated by his wearing the bracelet.

Julio Mejia Ayala

120. Julio Mejia Ayala is a native and citizen of El Salvador who came to the United States in 2016 seeking asylum. He now lives in Virginia.
121. In approximately March 2016, Mr. Mejia Ayala was arrested by the U.S. Customs and Border Patrol officials in Texas and eventually sent to an immigration detention facility in Washington State.
122. On April 7, 2016, a bond hearing was held for Mr. Mejia Ayala and an immigration judge ordered his release subject to a \$20,000 bond.
123. Mr. Mejia Ayala could not afford to pay the \$20,000 bond and so he remained in detention for several more weeks. Fearing he would be returned to El Salvador if he did not get out of detention, he became desperate. An acquaintance told him about Libre, so Mr. Mejia Ayala decided to call Libre to find out if they could assist him in getting out of detention.
124. Around June 18, 2016, Mr. Mejia Ayala called Libre. Over the phone, a Libre representative explained that he would need to sign a contract, make a \$4,800 up-front payment consisting of a \$4,000 "interest payment," and \$800 in other fees. He was also informed that he would need to wear a GPS monitoring ankle bracelet and make \$420 monthly payments, which Libre led him to believe were to pay down a loan for the bond.

125. Libre also told him they would provide him with an immigration attorney. However, a Libre representative later told him “he did not qualify” for the immigration attorney.
126. Libre sent an English-language Original Contract to Mr. Mejia Ayala’s cousin, Samuel Mejia, who lives in Virginia, who signed the paperwork and paid \$4,800 to Libre via wire transfer.
127. The contract documents contained a “Risk Assessment Instrument” which purported to evaluate the flight risk posed by Mr. Mejia Ayala. *See* Exhibit 2 at 2. But for the sham “presumption charge” designation, Mr. Mejia Ayala would not have reached the 22 point threshold that triggers the GPS requirement and its monthly lease fee. *See* ¶¶ 71-75, *supra*.
128. On information and belief, shortly after Mr. Mejia Ayala’s cousin paid Libre \$4,800, Libre arranged for bond to be posted on behalf of Mr. Mejia Ayala through Statewide Bonding.
129. On June 24, 2016, a Libre employee picked Mr. Mejia Ayala up from immigration detention. The employee told him, “You are free from detention, but if you run, we’ll call immigration and you’ll be deported.” The employee brought him to a Burger King, and then to Libre’s office in Seattle, Washington.
130. At Libre’s office, the Libre representative presented Mr. Mejia Ayala with the English-language documents and told him to sign. Mr. Ayala cannot read English but signed and initialed the contract where he was told. The Libre representative told him that if he did not pay the \$420 monthly fee, Libre would call immigration and immigration would come to his house, arrest him, and deport him back to El Salvador.
131. He was outfitted with the GPS ankle monitor and instructed to charge it daily.

132. Once released, Mr. Mejia Ayala moved to Virginia where he began working for a landscaping company in order to pay Libre the \$420 monthly payments. However, he lost the job after a few months when his boss saw his GPS monitor and told him it was a “risk to the company” for him to be working there.
133. Mr. Mejia Ayala paid the \$420 for a few more months after losing his job, but eventually was no longer able to pay.
134. Libre began to contact him and Samuel Mejia, his cousin who cosigned the contract, demanding payment. During one of these calls, Mr. Mejia Ayala told the Libre employee that he could not afford to make a payment. The Libre employee responded that he would “have problems in immigration court if he did not make his payments,” that Libre will take him or his cousin to court or “to collections,” and his cousin will have bad credit as a result.
135. Mr. Mejia Ayala still wears the GPS ankle monitor to this day.

Edwin Alvarenga

136. Plaintiff Edwin Geovany Alvarenga-Serrano (“Mr. Alvarenga”) is a citizen of Honduras who came to the United States in 2018 seeking asylum. He now lives in Herndon, Virginia.
137. In early 2018, Mr. Alvarenga was arrested by immigration authorities near the U.S.-Mexico border, was taken to a detention center in McAllen, Texas, and later transferred to a detention center in Houston, Texas.
138. After passing his initial asylum interview, ICE determined he was eligible to be released from detention subject to a \$12,500 bond.

139. Mr. Alvarenga did not have \$12,500 to pay his bond but was desperate to be released from detention. He heard about Libre from another person in the detention center and asked his sister, Sandra Alvarenga-Serrano, a resident of Virginia, to call the company to learn more.
140. Over the phone, a Libre representative told Sandra that Libre by Nexus would pay Mr. Alvarenga's bond and in exchange, she and Mr. Alvarenga would need to sign a contract, make an up-front payment of \$3,490, and pay \$450 per month for 34 months as "interest on the loan." The Libre representative also told her that Mr. Alvarenga would be required to wear a GPS monitor.
141. Sandra implored the Libre representative to reduce the monthly payments because \$450 per month was a huge sum of money based on her income, but the Libre representative refused.
142. Libre sent Sandra the Revised Contract documents by fax. On May 14, 2018, relying on the Libre representative's statements, Sandra signed the documents and paid Libre by Nexus \$3,490. She also paid Libre approximately \$500 for Mr. Alvarenga's flight from Texas to Virginia.
143. On information and belief, shortly after Sandra paid Libre the up-front payment, Libre arranged for the bond to be guaranteed on behalf of Mr. Alvarenga through a licensed bail bond company and a licensed surety company.
144. On May 15, 2018, a Libre representative named Andy picked up Mr. Alvarenga from the detention center in Houston. The representative took Mr. Alvarenga to a fast food restaurant and then to a Libre office. By the time they arrived, it was late in the evening.

145. At the office, a Libre representative presented Mr. Alvarenga with the Libre contract and reiterated that he would be required to make monthly payments of \$450 for 34 months “for the money we lent you” and wear the GPS monitor. The Libre employee also told him he would have to call to report in to the company every 15 days.
146. The employee also showed him a video in Spanish describing the requirements.
147. Faced with these onerous terms, and fearing that refusing to agree to them would mean he would be returned to detention, Mr. Alvarenga signed the documents. Mr. Alvarenga was outfitted with the GPS ankle monitor and instructed to charge it for 90 minutes every day.
148. Mr. Alvarenga stayed the night at a hotel arranged by Libre and took a flight to Virginia the next day.
149. Since that time, Mr. Alvarenga has struggled to pay Libre each month. Even though he needs the money to pay an immigration attorney to represent him in his asylum case, he paid Libre each month for four or five months because he feared he would be arrested and returned to detention if he failed to pay. Sometimes he had to pay late, and a Libre employee told him he had to pay a \$10 surcharge each time he paid late.
150. Starting around January 2019, Mr. Alvarenga could no longer afford to pay Libre and support himself at the same time. He called Libre and asked if they would lower the payments but they refused and said, “You have to pay.”
151. Libre representatives have also contacted Sandra Alvarenga and told her, “You signed the contract. You have to pay until you’ve paid everything.”
152. Wearing the GPS monitor interferes with Mr. Alvarenga’s daily life and causes him physical and mental suffering. He often cannot sleep or gets woken up in the middle of

the night because of the discomfort of the device. He continues to wear the GPS monitor to this day.

Juan Francisco Narvaez-Molina

153. Plaintiff Juan Francisco Narvaez-Molina (“Mr. Narvaez”) is a citizen of Nicaragua who came to the United States in 2018 seeking asylum. He now lives in Manassas, Virginia.
154. In late 2018, Mr. Narvaez was arrested by immigration authorities and taken to a detention center in Livingston, Texas.
155. In December 2018, the Department of Homeland Security gave Mr. Narvaez a \$12,000 bond.
156. Mr. Narvaez was not able to afford the \$12,000 bond but was desperate to be released from detention. He called his cousin, Paula, a resident of Virginia, who heard about Libre by Nexus from a friend. She called the company by phone to learn more.
157. Over the phone, a Libre representative named “Hugo” told Paula in Spanish that Libre by Nexus would pay Mr. Narvaez’s bond and, in exchange, Mr. Narvaez would need to sign a contract, make an upfront payment in the amount \$4500, make monthly payments, and wear a GPS ankle monitor.
158. Neither Paula nor Mr. Narvaez had the money to pay Libre even the up-front payment, and so Paula contacted her brother, Edwin Altamirano, a resident of Virginia. Paula and Edwin pooled their money to come up with the \$4500.
159. Libre sent the Revised Contract documents via fax to Edwin Altamirano in Virginia. On January 4, 2019, relying on Hugo’s representations to Paula and communicated to him, Edwin Altamirano signed the documents without reading them and paid Libre \$4500.

They also paid Libre \$500 for a plane ticket for Mr. Narvaez to get from from Texas to Virginia.

160. On information and belief, shortly after Edwin Altamirano paid Libre \$5,000, Libre arranged for the bond to be guaranteed on behalf of Mr. Narvaez through a licensed surety bail bond company and a licensed surety company.
161. On or about January 7, 2019, a Libre representative picked up Mr. Narvaez from the detention center. The representative took Mr. Narvaez to a Libre office.
162. At the office, a Libre representative presented Mr. Narvaez with the Libre contract and told him for the first time that he would be required to make monthly payments of \$450 for 34 months “for the ankle bracelet,” plus an additional \$50 maintenance fee. The representative told him that if he could not pay one month, “the debt is just going to accumulate and build up.” Mr. Narvaez was told that if he wished to pay down the \$12,000 debt for the bond, he would need to make payments in addition to the \$500 per month.
163. Faced with these new onerous terms, and fearing that refusing to agree to them would mean he would be returned to detention, Mr. Narvaez signed the documents. Mr. Narvaez was outfitted with the GPS ankle monitor and instructed to charge it for 90 minutes every day.
164. Mr. Narvaez made two monthly payments of \$500 after being released from detention. Paying Libre is a struggle for Mr. Narvaez, but he tried to make payments because he feared he would be arrested and returned to detention if he failed to pay. Mr. Narvaez and his family have paid Libre a total of \$6000.

165. Wearing the GPS monitor interferes with Mr. Narvaez's daily life and causes him physical and mental suffering, including making it difficult for him to sleep. He still wears the GPS monitor to this day.

Carlos Portillo Morales

166. Plaintiff Carlos Portillo Morales ("Mr. Morales") is a native of El Salvador who came to the United States seeking asylum in 2007. He is a resident of Woodbridge, Virginia.
167. On July 4, 2018, Mr. Morales was arrested at his home in Woodbridge, Virginia, for a misdemeanor by the Prince William County police and taken to the local police station. Due to an agreement Prince William County has with ICE, instead of being released, he was transferred directly to ICE custody and brought to Farmville Detention Center in Farmville, Virginia.
168. On July 10, 2018, ICE initiated deportation proceedings against Mr. Morales and determined that he should be released from detention pending resolution of his case if he could pay an \$8,000 bond.
169. Mr. Morales has an extremely limited income and was not able to afford the \$8,000 bond and remained in detention for two more weeks.
170. An acquaintance told him that Libre might be able to help. Mr. Morales had his friend, Ada Quintanilla, a resident of Virginia, contact the company by phone to learn more.
171. Over the phone, a Libre employee explained to Ada that it would post Mr. Morales' bond if he paid \$2,590 up front, as well as additional monthly payments.
172. Mr. Morales did not have \$2,590 so members of his family in El Salvador sent the money and on or about July 26, 2018, Ada deposited the money into Libre's account at a local bank, as was instructed by the Libre representative.

173. After Ada paid Libre almost \$2,600, Mr. Morales stayed in the Farmville Detention Center for over three weeks waiting for Libre to post his bond. Mr. Morales called Libre repeatedly attempting to figure out what was happening and was told by Libre representatives that “there was a problem with his paperwork.”
174. Eventually, on August 18, 2018— 23 days after he had paid Libre— Libre arranged for bond to be posted on behalf of Mr. Morales through the licensed bail bond company Statewide Bonding.
175. A Libre representative picked up Mr. Morales from the Farmville Detention Center and took him to Libre’s office near Tysons Corner, Virginia. By the time they arrived at the office, it was after midnight. The representative played for Mr. Morales an audio recording about Libre in Spanish and presented him with a Revised Contract to sign.
176. The Libre representative told Mr. Morales for the first time that he would have to wear a GPS ankle monitor and pay \$375 per month for 23 months “for the \$8,000.” By this, Mr. Morales believed that Libre had loaned him the bond amount, which he was required to repay over a term of months. Fearing that he would be taken back to detention if he refused, he signed the contract.
177. Mr. Morales was outfitted with the GPS ankle monitor and instructed to charge it for an hour daily. He was also instructed to call Libre every week to “report.”
178. Mr. Morales began making monthly payments to Libre in the amount of \$375 per month in order to repay what Libre had caused him to believe was a debt to Libre. Mr. Morales was only able to pay Libre for one month after he was released because he has extremely little income. Because he is behind on paying Libre, he receives texts and phone calls demanding payment. He called Libre each week to “report.” Mr. Morales

fears Libre because he believes that Libre can know where he is at all times due to the GPS monitor.

179. To date, Mr. Morales has paid Libre approximately \$3,000.
180. Wearing the GPS ankle monitor interferes with Mr. Morales' daily life and causes him physical and mental suffering. He is required to charge it for an hour per day. The skin on Mr. Morales' ankle is also red and irritated by his wearing the bracelet. Wearing the GPS monitor also causes problems at home and at work because his colleagues believe that he is a target of immigration enforcement. It causes him embarrassment to wear it among family and friends. Mr. Morales wears the GPS monitor to this day.

CLAIMS

Claim I

Virginia Consumer Protection Act Va. Code § 59.1-196 *et seq*

181. Plaintiffs incorporate by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.
182. Section 59.1-200(A) of the Virginia Consumer Protection Act (VCPA) prohibits fraudulent acts or practices committed by a supplier in connection with a consumer transaction. Such prohibited acts or practices include, without limitation:
- a. misrepresenting goods or services as those of another, Va. Code § 59.1-200(A)(1);
 - b. misrepresenting the source, sponsorship, approval, or certification of goods or services, Va. Code § 59.1-200(A)(2);
 - c. misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another, Va. Code § 59.1-200(A)(3);

- d. misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, Va. Code § 59.1-200(A)(5);
- e. advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised, Va. Code § 59.1-200(A)(8);
- f. misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed, Va. Code § 59.1-200(A)(10);
- g. using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, Va. Code § 59.1-200(A)(14); and
- h. violating any provision of Va. Code § 18.2-178 (obtaining money or signature, etc. by false pretense), Va. Code § 59.1-200(A)(57).

183. At all times relevant hereto, each Defendant was a “supplier,” and each transaction between Defendant and each Plaintiff was a “consumer transaction,” as those terms are defined in the VCPA, Va. Code § 59.1-196 *et seq.* (“VCPA”).

- a. A “supplier” is “a seller, lessor or licensor who advertises, solicits or engages in consumer transactions, or a manufacturer, distributor, or licensor who advertises and sells, leases or licenses goods or services to be resold, leased or sublicensed by other persons in consumer transactions.” Va. Code § 59.1-198. Here, Libre sells unlicensed surety services and immigration bond “program” services. Under the terms of Libre’s Original Contract, Libre leased GPS monitors to consumers for which they charged monthly rent payments. Under

the terms of Libre's Revised Contract, Libre provided GPS monitors and related services, for which it charged a monthly program fee..

- b. A "consumer transaction" includes "the advertisement, sale, lease, license or offering for sale, lease or license of goods or services to be used primarily for personal, family or household purposes." Va. Code § 59.1-198. Here, Libre advertised, sold, leased, offered for sale or offered for lease goods or services for the personal or household purpose of securing a consumer's release from immigration detention.

184. Defendants' acts and practices as alleged above were deceptive, fraudulent, and misleading and violate the VCPA. Defendants have violated the Virginia Consumer Protection Act, Va. Code § 59.1-200(A), by engaging in the acts or practices described herein in connection with consumer transactions with the Plaintiffs, including but not limited to:

- a. Defendants knowingly and intentionally led Plaintiffs to believe that the transactions between Plaintiffs and Libre were loans in the face amount of their bonds, and that the monthly payments to Libre were payments towards these loans, rather than GPS lease payments or program fees. This was accomplished through specific misrepresentations to each Plaintiff, for example, that they were paying money "towards the bond" or as "interest on the loan," Va. Code § 59.1-200(A)(5), (14), (57);
- b. With respect to Plaintiffs Garcia Salvador, Garcia Diaz, and Mejia Ayala Defendants fraudulently and deceptively, through misrepresentations and misleading statements, induced and coerced Plaintiffs to wear GPS monitoring

ankle bracelets. Defendants violated this section through the use of the Original Contract's sham Risk Assessment Instrument and the omission of key contractual provisions from the Spanish language summary of the terms of the agreement; Va. Code § 59.1-200A(2), (5), (14);

- c. Both the Original and Revised Contracts constitute deceptions designed to evade state and federal regulation of the bail bond and surety insurance industries in order to enable Libre to impose conditions and charge fees beyond what entities licensed under those regulations would be permitted by law to impose and charge, specifically by requiring consumers to wear GPS monitors, Va. Code § 59.1-200A (14);
- d. Defendants misrepresented to Plaintiffs that they were, in fact, being monitored by GPS while Defendants continued to charge Plaintiffs for this "service." In reality, Libre changed its GPS vendors several times without informing Plaintiffs or telling them to remove their GPS monitors which they could no longer track. They continued to collect money each month from customers as lease payments for entirely ornamental monitors, Va. Code § 59.1-200(A)(10), (14), (57);
- e. With respect to Plaintiffs Garcia Diaz, Garcia Salvador, Narvaez, and Morales Defendants advertised and offered their service to Plaintiffs' friends or family members over the phone on certain terms. Once Plaintiffs' friends or family members agreed and paid Defendants the required up-front payment, and after Plaintiffs were effectively in Defendants' custody, Defendants demanded new and more onerous terms under the implied threat that Defendant would be

returned to detention if they did not agree, Va. Code § 59.1-200(A)(8), (14), (57);

f. With respect to Plaintiffs Garcia Salvador, Garcia Diaz, and Mejia Ayala Defendants misrepresented their affiliation with immigration authorities through frequent reference to an “Agency” in Libre’s Original Contract, by explicit or implicit threats that failure to comply with Libre’s contractual requirements will result in re-detention or will affect Plaintiffs’ immigration cases, Va. Code § 59.1-200A(3), (14);

g. With respect to Plaintiffs Garcia Salvador, Garcia Diaz, and Mejia Ayala Defendants knowingly provided English-language contract documents and misleading Spanish “translations” to Spanish-speaking consumers with an intent to mislead them regarding the contents of those contracts, Va. Code § 59.1-200(A) (14), (57);

h. Defendants misrepresented and misled Plaintiffs to believe that Defendants had paid money to the U.S. Government to secure Plaintiffs’ release from detention when they did no such thing, and were not authorized to post bonds with the federal government, Va. Code § 59.1-200(A)(1), (2), (5), (14), (57)

185. Defendants made these misrepresentations and misled Plaintiffs willingly and knowingly.

186. Plaintiffs reasonably relied on Defendants’ misrepresentations which caused them to pay Libre thousands of dollars, suffer extreme financial hardship, caused them to forego basic life necessities such as food and rent, suffer bodily injury, restrain their liberty and freedom of movement, and experience extreme fear, anxiety and emotional distress.

Count II
Virginia Common Law Fraud

187. Plaintiffs incorporate by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.
188. In Virginia, common law fraud is a false representation or concealment of a material fact made intentionally and knowingly with the intent to mislead, upon which the plaintiff relied which caused them harm. *State Farm Mut. Auto. Ins. Co. v. Remley*, 270 Va. 209, 218, 618 S.E.2d 316, 321 (2005); *Van Deusen v. Snead*, 247 Va. 324 (Va. 1994)
189. Defendants committed fraud when:
- a. Defendants knowingly and intentionally led Plaintiffs to believe that the transactions between Plaintiffs and Libre were loans in the face amount of their bonds, and that the monthly payments to Libre were payments towards these loans, rather than GPS lease payments or program fees. This was accomplished through specific misrepresentations to each Plaintiff, for example, that they were paying money “towards the bond” or as “interest on the loan”;
 - b. With respect to Plaintiffs Garcia Salvador, Garcia Diaz, and Mejia Ayala Defendants fraudulently and deceptively, through misrepresentations and misleading statements, induced and coerced Plaintiffs to wear GPS monitoring ankle bracelets. Defendants accomplished this fraud through the use of the Original Contract’s sham Risk Assessment Instrument and the omission of key contractual provisions from the Spanish language summary of the terms of the agreement,

- c. Both the Original and Revised Contracts constitute deceptions designed to evade state and federal regulation of the bail bond and surety insurance industries in order to enable Libre to impose conditions and charge fees beyond what entities licensed under those regulations would be permitted by law to impose and charge, specifically by requiring consumers to wear GPS monitors,
- d. Defendants misrepresented or concealed the fact from Plaintiffs that they were, in fact, being monitored by GPS while Defendants continued to charge Plaintiffs for this “service.” In reality, Libre changed its GPS vendors several times without informing Plaintiffs or telling them to remove their GPS monitors which they could no longer track. They continued to collect \$420 lease payments, or program fees in varying amounts, each month from customers as payments for entirely ornamental monitors;
- e. With respect to Plaintiffs Garcia Diaz, Garcia Salvador, Narvaez, and Morales, Defendants advertised and offered their service to Plaintiffs’ friend or family member over the phone on certain terms. Once Plaintiffs’ friend or family member agreed and paid Defendants the required up-front payment, and when Plaintiffs were effectively in Defendants’ custody, Defendants demanded new and more onerous terms and concealed the fact that Plaintiffs could not be returned to detention, even if they refused to sign the written contract, leading Plaintiffs to mistakenly believe that Defendants would return them to detention if they did not agree;

- f. With respect to Plaintiffs Garcia Diaz, Garcia Salvador, and Mejia Ayala Defendants misrepresented their affiliation with immigration authorities through frequent reference to an “Agency” in Libre’s Original Contract, by concealing this fact despite Plaintiffs’ evident belief to the contrary, and by explicit or implicit threats that failure to comply with Libre’s contractual requirements will result in re-detention or will affect Plaintiffs’ immigration cases;
 - g. With respect to Plaintiffs Garcia Diaz, Garcia Salvador, and Mejia Ayala Defendants knowingly provided English-language contract documents and misleading Spanish “translations” to Spanish-speaking consumers knowingly concealing and with an intent to mislead them regarding the contents of those contracts.
 - h. Defendants misrepresented, misled, and concealed material facts which led Plaintiffs to believe that Defendants had paid money to the U.S. Government to secure Plaintiffs’ release from detention when they did no such thing, and were not authorized to post bonds with the federal government;
190. Plaintiffs reasonably relied on Defendants’ misrepresentations and concealments of material fact which caused them to pay Libre thousands of dollars, suffer extreme financial hardship, caused them to forego basic life necessities such as food and rent, suffer bodily injury, restrain their liberty and freedom of movement, and experience extreme fear, anxiety and emotional distress.

Count III
Virginia Constructive Fraud

191. Plaintiffs incorporate by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.
192. In Virginia, “the elements of a cause of action for constructive fraud are a showing by clear and convincing evidence that a false representation of a material fact was made innocently or negligently, and the injured party was damaged as a result of his reliance upon the misrepresentation.” *Baker v. Elam*, 883 F.Supp.2d 576, 580 (E.D. Va. 2012) (internal citation omitted).
193. Libre’s conduct described above in Paragraph 189, *supra*, to the extent that it is found to be “innocent” or “negligent” rather than intentional nevertheless constitutes constructive fraud.
194. Plaintiffs reasonably relied on Defendants’ misrepresentations and concealments of material fact which caused them to pay Libre thousands of dollars, suffer extreme financial hardship, caused them to forego basic life necessities such as food and rent, suffer bodily injury, restrain their liberty and freedom of movement, and experience extreme fear, anxiety and emotional distress.

Count IV
Battery

195. Plaintiffs incorporate by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.
196. In Virginia, “battery is an unwanted touching which is neither consented to, excused, nor justified.” *Koffman v. Garnett*, 265 Va. 12, 16, 574 S.E.2d 258, 261 (2003). While consent is generally a defense to a claim of battery, fraudulently induced consent does not constitute a valid defense. *See Banovitch v. Commonwealth*, 196 Va. 210, 219, 83 S.E.2d, 369, 375 (1954). Virginia courts have long held that a claim of battery can be

proved even absent a showing of physical injury. *See, e.g., S.H. Kress & Co. v. Musgrove*, 153 Va. 348, 356–57, 149 S.E. 453, 455 (1929); *see also Adams v. Commonwealth*, 33 Va. App. 463, 469, 534 S.E.2d 347, 351 (2000) (“In Virginia, it is abundantly clear that a perpetrator need not inflict a physical injury to commit a battery.”).

197. Defendants committed the intentional tort of battery when Defendants intentionally placed the GPS monitoring ankle bracelets on Plaintiffs, causing them pain, discomfort, humiliation, anxiety, and emotional distress;
198. Any consent Plaintiffs gave for the placement of the GPS monitors was fraudulently induced by the misrepresentations described in Paragraph 189, *supra*, and is therefore invalid.
199. As a result of Defendants’ intentional acts, Plaintiffs suffered bodily injury, had their liberty and freedom of movement restrained, and experienced extreme fear, anxiety, and emotional distress.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

200. Enter judgment jointly and severally against all Defendants in favor of Plaintiffs on all claims;
201. Issue a declaratory judgment pursuant to Va. Code § 8.01-184 declaring the contract documents between Plaintiffs and Defendants null and void, unconscionable, contrary to public policy, and unenforceable as a matter of law;

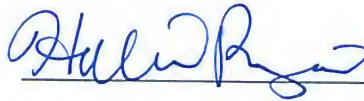
202. Issue a declaratory judgment pursuant to Va. Code § 8.01-184 releasing Plaintiffs from any further performance under any purported contract between each Plaintiff and any of the Defendants, and ordering the removal of all Plaintiffs' GPS monitors;
203. Rescind any purported contract between any Plaintiff and any Defendant;
204. Award Plaintiffs damages pursuant to Va. Code § 59.1-204(A). Section 59.1-204(A) provides for actual damages, which may be trebled because Defendants have committed willful violations, or statutory damages of \$1,000, whichever is greater.
205. Award Plaintiffs damages on their common law fraud claims;
206. Award Plaintiffs damages on their battery claims;
207. Plaintiffs have sustained damages in the amount of:
 - a. Marvin Garcia Salvador: \$6000 paid to Libre plus \$29,000 in emotional distress,
 - b. Marvin Garcia Diaz: \$29,000 in emotional distress,
 - c. Julio Mejia Ayala: \$7,260 paid to Libre plus \$38,000 in emotional distress,
 - d. Edwin Alvarenga: \$7,140 paid to Libre plus \$15,000 in emotional distress,
 - e. Juan Narvaez: \$6,000 paid to Libre plus \$7,000 in emotional distress,
 - f. Carlos Portillo Morales: \$2,965 paid to Libre plus \$23,000 in emotional distress.
208. Award Plaintiffs punitive damages in the amount of \$250,000 each;
209. Award Plaintiffs reasonable attorneys' fees and court costs pursuant to Va. Code § 59.1-204(B); and
210. Award Plaintiffs any other relief the Court deems just and necessary.

JURY DEMAND

Plaintiffs demand trial by jury on all issues as to which a jury trial is available.

Dated: 08/8/2019

Respectfully submitted,



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